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December 12, 1995

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Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Mr. Caton:

Re: In the Matter of Bell Operating Companies' Joint Petition for
Waiver of Computer II Rules; Ameritech's Plan to Provide Comparably
Efficient Interconnection to Providers of Personal Access Service,
CC Docket Nos. 85-229, 90-623 and 95-20

This letter responds to the ex parte letter, dated December 1, 1995, that MCI filed in the proceeding concerning Ameritech's CEI plan for Personal Access Service. In its letter, MCI ignores the Commission's longstanding requirements for determining whether certain functionality will be treated as regulated basic service or as part of unregulated equipment. Accordingly, in considering Ameritech's CEI plan for Personal Access Service, the Commission should reject MCI's arguments.

MCI argues that if a BOC "chooses to employ" any functionalities that under Commission precedent "may be offered as an adjunct to basic telephone service" the carrier "has no choice as to whether to tariff them" because they are basic service.¹ Under MCI's theory, the Commission would review the functionalities in the abstract rather than considering how the BOC intends to employ them. If they are "call routing, forwarding and similar functions [that] are 'permissible adjuncts to basic services,' " then the BOC always would be required to tariff them as basic service.²

¹ MCI December 1, 1995 letter, p. 2.

² Id.

MCI's theory is illogical and contrary to the Commission's practice. It would not make sense to categorize certain functionality as always basic, or adjunct to basic, and the Commission has not done so. Rather than looking at functionality in the abstract, the Commission considers the nature of the service with which the BOC will use the functionality.

For instance, in 1988 Bell Atlantic proposed to offer Gateway Services that would include a packet assembler-disassembler ("PAD") that would "add certain signalling for transmission to a centrally located gateway processor."³ Bell Atlantic pointed out that a feature of the PAD would be mnemonic dialing.⁴ ANPA urged the Commission to require Bell Atlantic to meet basic service requirements for the PAD and specifically "to show how it will comply with the requirement to make available standardized hardware and software interfaces to support the transmission, switching, and signalling functions of the PAD."⁵ The Commission rejected ANPA's arguments, concluding:

Because gateway service is enhanced, the PADs that Bell Atlantic proposes to use exclusively for gateway service are unregulated equipment. Thus, Bell Atlantic has a nondiscrimination obligation for the basic services that, for example, connect its gateway PADs to the network, but not for the PADs themselves. Moreover, Bell Atlantic has clarified that similar PADs are competitively available and that competitors will be able to connect their PADs to Bell Atlantic's central offices through standard technical interfaces. Accordingly, the Plan satisfies this parameter.

Thus, the treatment of the PADs depended on whether or not they were dedicated for use exclusively with the enhanced service. Since they were, the PADs were unregulated. Under MCI's theory, the Commission would have noted that the PADs provide mnemonic dialing which may be adjunct to basic service⁶ and thus would have required Bell Atlantic to include the PADs as part of tariffed regulated service. The

³ The Bell Atlantic Telephone Companies Offer of Comparably Efficient Interconnection to Providers of Gateway Services, DA 88-1512, Memorandum Opinion and Order, 3 FCC Rcd 6045, para. 3. The features of the PAD also would include async to X.25 protocol conversion.

⁴ Id. at para. 33.

⁵ Id. at para. 22.

⁶ See, e.g., North American Telecommunications Assn., 101 FCC 2d 349, 359, 360 (1985).

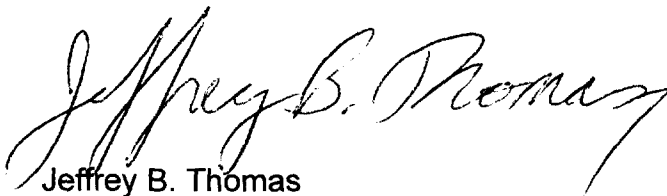
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Commission, however, looked at what the equipment was actually being used with and decided that it was unregulated.⁷

The Commission's approach allows the BOCs' enhanced service operations to create enhanced services using unregulated equipment on the same basis as their competitors. Like their competitors, the BOCs attach their enhanced services to the public switched telephone network via tariffed services that are available to all parties at the same rates, terms, and conditions, ensuring comparably efficient interconnection.

Accordingly, in its review of Ameritech's CEI plan the Commission should reject MCI's theory which would frustrate the ability of the BOCs to provide competitive enhanced services in accordance with the Commission's CEI goals.

Sincerely,



Jeffrey B. Thomas
Senior Counsel

cc: Regina Keeney, Rose Crellin, Janice Myles, Blaise Scinto, Campbell Ayling,
Kirven Gilbert III, Larry Katz, Robert McKenna, Frank Panek

⁷ In a different context, the Commission considered a form of mnemonic dialing (speed dialing), found that it was used with basic service, and decided that it was regulated adjunct to basic service. Id.